



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

[Docket No. FRA-2021-0006-N-16]

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On August 23, 2021, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to

www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, at email: Hodan.Wells@dot.gov or telephone: (202) 493-0440; or Mr. John Purnell, Information Collection Clearance Officer, at email: john.purnell@dot.gov or telephone: (202) 493-0500.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices

seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On August 23, 2021, FRA published a 60-day notice in the *Federal Register* soliciting comment on the ICR for which it is now seeking OMB approval. *See* 86 FR 47195. FRA received one comment from the Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRA) in response to this 60-day notice. This comment letter is a follow up to a discussion that AAR had with FRA on October 14, 2021. A summary of the discussion is available in the above-referenced docket.

In their joint comment letter, AAR and ASLRRA expressed their concerns with FRA's proposed burden estimates. They asserted that these estimates were significantly reduced from the 2018 OMB control no. 2130-0004 ICR package, even though the scope of the requirements in 49 CFR part 229 have remained unchanged since that time. AAR and ASLRRA specifically cited to §§ 229.21¹ and 229.25(d), in which the paperwork burdens were reduced from 31-33 minutes to 3 minutes and 350 hours to 0 hours, respectively. They also noted that the only information publicly available to compare FRA's significant reduction in estimated burdens is a chart appearing in the 60-day notice.

In response to this feedback, FRA has reviewed its PRA estimates, which are re-printed below. However, except for noting a typographical error associated with § 229.317(g), FRA believes that it accurately captured the part 229 paperwork burdens in the 60-day notice. While preparing this revised ICR package, FRA performed a detailed review of part 229 and made several adjustments to its estimated paperwork burdens. FRA determined that many estimated paperwork burdens were either outdated or

¹ Although a subsection was not specified in the letter, FRA believes that AAR and ASLRRA are referring specifically to 49 CFR 229.21(a).

accounted for in other regulatory sections. Further, the associated burdens related to inspection and testing, as well as employee training and job briefings, were appropriately addressed when FRA calculated the economic costs of the regulation. *See* Executive Order 12866; OMB Circular A-4. FRA is correcting any errors by removing burdens that were accounted for in the regulation's economic analyses, which FRA previously erroneously also calculated as burdens under the PRA.

With respect to AAR's and ASLRRA's specific feedback regarding § 229.21(a), FRA determined that the 31- or 33-minute paperwork burden estimate included the railroads' performance of daily inspections. While AAR and ASLRRA are correct that the regulatory requirement has not changed since 2002, FRA is correcting its previous overestimation errors. Up until 2011, the published average time per response was 1 or 3 minutes.² Between 2012 and 2018, FRA incorrectly added the time associated with the performance of daily inspections (which are not burdens under the PRA) to the average time per response, so that it became 16 or 18 minutes in 2002³ and then 31 or 33 minutes in 2018.⁴ The inclusion of inspection time resulted in a significant increase in the overall burden for this requirement from 155,350 to 1.9 million hours in 2012 and to 3.6 million hours in 2018. In the 60-day notice, FRA corrected the average time per response to 1 or 3 minutes, now closely matching the 2011 estimates. Similarly, FRA adjusted the average time per response under § 229.21(b) by removing the estimated paperwork burden associated with inspection that was incorrectly added in 2012. With respect to AAR's and ASLRRA's specific feedback regarding § 229.25(d), FRA maintains that its estimate in the 60-day notice is correct and the estimated paperwork burden had previously been double-counted. Upon review of the requirements under § 229.25(d), FRA found that the burden associated with § 229.25(d)(3) is covered under §

² 76 FR 34287.

³ 77 FR 21339.

⁴ 83 FR 37607.

229.25(d)(2). Thus, FRA removed the duplicative burden and included an explanatory note in the PRA table printed below.

Going forward, in future 60-day notices, FRA proposes to highlight the regulatory sections in which estimates have been significantly adjusted to allow stakeholders to more easily determine significant estimate adjustments. As stated above, FRA has re-printed the PRA table in the 60-day notice and noted below the significant adjustments.

Before OMB decides whether to approve the proposed collection of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b); *see also* 60 FR 44978, 44983 (Aug. 29, 1995). OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Railroad Locomotive Safety Standards and Event Recorders.

OMB Control Number: 2130-0004.

Abstract: FRA's locomotive safety standards (49 CFR part 229) require railroads to inspect, repair, and maintain locomotives, including their event recorders, to ensure they are safe and free of defects.

The data gathered from locomotive event recorders is used by the railroad industry and by railroad employees (locomotive engineers, train crews, dispatchers) to improve train handling and promote the safe and efficient operation of trains throughout the country. Locomotive event recorders also provide FRA and State railroad safety inspectors with verified data elements for use in their oversight responsibilities that show how trains are operated from lead locomotives.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.49A.

Respondent Universe: 754 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR Section ⁵	Respondent universe	Total Annual responses	Average time per response	Total annual burden hours	Total cost equivalent ⁶
229.9—Movement of non-complying locomotives—Tagging to indicate "non-complying locomotive"	754 railroads	1,307 tags	1 minute	21.79 hours	\$1,566.48

⁵ The current inventory exhibits a total burden of 3,815,751 hours while the total burden of this notice is 232,348 hours. As part of its review of this ICR renewal, FRA determined many of the previous estimates were preliminary, outdated, or duplicative. Moreover, FRA removed improperly included locomotive safety requirements, which are outside the scope of burdens under the PRA, thus decreasing the total estimates accordingly in this notice.

⁶ The dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

229.15(a)(11)— Remote control locomotives— Tagging to indicate in remote control	754 railroads	349 tags	1 minute	5.82 hours	\$418.40
—(b)(3) Inspection, testing, and repair— Repair record of defective operator control unit linked to remote control locomotive	The estimated paperwork burden for this regulatory requirement is covered under § 229.21(a).				
229.17—Accident reports—Reporting of accidents that results in serious injury or death of one or more persons	The estimated paperwork burden for this regulatory requirement is covered under OMB control number 2130-0500.				
229.20(c)— Operational requirements— Automatic notice to railroads each time locomotive is due for inspection or maintenance (Note: This requirement does not apply to daily inspections)	754 railroads	21,000 automatic notifications	1 second	5.83 hours	\$451.48
229.21(a)—Daily inspection—Except for multiple-unit (MU) operated locomotive ⁷	754 railroads	7,443,020 (744,302 paper records + 6,698,718 electronic records)	3 minutes (paper records) + 1 minute (electronic records)	148,860.40 hours	\$11,527,749.38
—(b) Written reports of MU locomotive inspections	754 railroads	1,300,000 written reports	3 minutes	65,000.00 hours	\$4,672,850.00
229.23(d)-(g)— Periodic Inspection— Locomotive Inspection & Repair Record—Form FRA F 6180.49A	718 railroads	28,627 other than passenger locomotives	15 minutes	7,156.75 hours	\$514,498.76
229.23(d)-(g)— Periodic Inspection— Locomotive Inspection & Repair Record—Form FRA F 6180.49A ⁸	36 railroads	4,500 passenger locomotives	15 minutes	1,125.00 hours	\$80,876.25

⁷ As discussed above, the 2018 estimates for § 229.21(a) and (b) incorrectly included the time associated with the performance of daily inspections, which should not have been included in the estimated paperwork burden. The burdens associated with the performance of daily inspections were addressed when FRA calculated the economic costs of the regulatory requirements. Thus, FRA has adjusted the estimated paperwork burden in the PRA table above so that it does not include activities outside of the scope of the PRA.

⁸ FRA is proposing to create a new form for use by passenger railroads, Form F 6180-49AP (Passenger Locomotive Inspection and Repair Record), under OMB control number 2130-0035. Once the new form is approved, FRA will move this under the proposed 49 CFR 229.22 of OMB 2130-0035.

—(g) Secondary record of the information reported on Form FRA F 6180.49A	The estimated paperwork burden for this regulatory requirement is covered under § 229.21(a).				
—(h) List of defects and repairs during inspection provided to RR employees	The associated burdens relating to the retention of defect and repair lists are covered under §§ 229.21 (for reports) and 229.23 (for records of repairs).				
—(i) Document from railroad to employees of all tests conducted since last periodic inspection	The associated burdens relating to all tests conducted since last periodic inspection are covered under § 229.23 (under "Last Periodic Inspection" entry in Form FRA F 6180.49A).				
229.25(d)(1)—Periodic inspection of event recorders: Written copy of instructions	FRA anticipates no new instructions during this 3-year ICR period or during the lifecycle of the event recorders. Thus, there will be no additional burdens.				
229.25(d)(2) and (4)—Data verification readout of event recorder	754 railroads	5,908 readout records and reports	90 minutes	8,862.00 hours	\$686,273.28
—(d)(3) Pre-maintenance test failures of event recorder	The estimated paperwork burden for this regulatory requirement is covered under § 229.25(d)(2).				
229.27(c)—Annual tests of event recorders with self monitoring feature displaying a failure indication—Tests	The estimated paperwork burden for this regulatory requirement is covered under § 229.23 (under "Annual Tests" entry in Form FRA F 6180.49A).				
229.29—Calibration of locomotive air flow meter—Tests	The estimated paperwork burden for this regulatory requirement is covered under § 229.23 (under "Air Brakes" entry in Form FRA F 6180.49A).				
229.31—Main reservoir tests: Periodic inspections—Repairs & adjustments, & data on Form FRA F 6180.49A	The estimated paperwork burden for this regulatory requirement is covered under § 229.23 (under "Hammer and Hydro" in Form FRA F 6180.49A).				
229.33—Out-of-use credit	The estimated paperwork burden for this regulatory requirement is covered under § 229.23 (under "Out-of-use Credit" in Form FRA F 6180.49A).				
229.46—Tagging locomotive with inoperative or ineffective automatic/independent brake that can only be used in trailing position	754 railroads	2,269 tags	1 minute	37.81 hours	\$2,718.16

229.85—Marking of all doors, cover plates, or barriers having direct access to high voltage equipment with words “Danger High Voltage” or with word “Danger”	754 railroads	1,080 decals or markings	1 minute	18.00 hours	\$1,078.02
229.123(b)(2)—Locomotives equipped with a pilot, snowplow & plate with clearance above 6 inches—Marking/stenciling with words “9-inch Maximum End Plate Height, Yard or Trail Service Only”	754 railroads	22 markings/stencils	4 minutes	1.44 hours	\$104.96
—(b)(4) Notation in Remarks section of Form FRA F6180.49A of pilot, snowplow, or end plate clearance above 6 inches	The estimated paperwork burden for this regulatory requirement is covered under § 229.23 (under "Remarks" in Form FRA F 6180.49A).				
229.135—Removal of event recorder from service—Tags	The estimated burden for this regulatory requirement is covered under § 229.23 (under "Event Recorder" in Form FRA F 6180.49a).				
—(e) Preserving locomotive event recorder accident data—Reports	The estimated paperwork burden for this regulatory requirement is covered under OMB control number 2130-0500.				
229.303—Requests to FRA for on-track testing of products outside a facility	754 railroads	5 written requests	1 hour	5.00 hours	\$387.20
229.307—Safety analysis for each product subject to this subpart—Document establishing minimum requirements	754 railroads	3 safety analysis documents	240 hours	720.00 hours	\$55,756.80
229.309—Safety critical changes to product subject to this subpart—Notice to FRA	754 railroads	5 notifications	8 hours	40.00 hours	\$3,097.60
—(b) and (c) Report by product suppliers and private owners to railroads of any safety-critical changes to product	3 manufacturers	15 reports	8 hours	120.00 hours	\$9,292.80
229.311(a)—Notice to FRA by railroad before placing product in service	754 railroads	3 notifications	2 hours	6.00 hours	\$464.64

— (c) Railroad document provided to FRA upon request demonstrating product meets safety analysis requirements for life cycle of product	The estimated paperwork burden for this regulatory requirement is covered under § 229.307.				
—(d) Railroad maintenance of data base of all safety relevant hazards encountered after product is placed in service	754 railroads	3 databases	2 hours	6.00 hours	\$464.64
—(d)(1) Written report to FRA disclosing frequency of safety-relevant hazards for product exceeding threshold set forth in Safety Analysis	754 railroads	1 written report	2 hours	2.00 hours	\$154.88
—(d)(2)-(3) Final report to FRA on results of analyses and counter measures to reduce frequency of safety related hazards	The estimated paperwork burden associated with this requirement is covered under § 229.311(d)(1).				
229.313—Product testing results and records	The estimated paperwork burden associated with this requirement is covered under § 229.311(d).				
229.315(b)—Railroad maintenance of Operations and Maintenance Manual containing all documents related to installation, maintenance, repair, modification, & testing of a product subject to this part	754 railroads	3 filings of manuals	1 minute	.05 hour	\$3.87
—(c) Configuration management control plan	754 railroads	3 filings of revised plans	1 minute	.05 hour	\$3.87
—(d) and (e) Positive ID of safety-critical components	The paperwork burdens associated with these requirements are covered under §§ 229.307 and 229.311.				
229.317(a)—Training and qualification program-- Establishment and implementation of training qualification program for products subject to this subpart	754 railroads	90 filings of new or revised training programs	1 minute	1.50 hours	\$116.16
—(b) Employees trained under RR program	754 railroads	10,000 trained employees' records	1 minute	166.67 hours	\$12,906.92

—(f) Periodic refresher training of employees	754 railroads	1,000 re-trained employees' records	1 minute	16.67 hours	\$1,290.92
—(g) RR regular and periodic evaluation of effectiveness of its training program (Calculation error corrected.)	754 railroads	90 evaluations	2 hours	180.00 hours	\$13,939.20
—(h) RR record of individuals designated as qualified under this section	754 railroads	10,000 electronic records	1 minute	166.67 hours	\$12,906.92
Appendix F to Part 229—Guidance for verification and validation of products—Third party assessments	FRA anticipates zero railroad submissions during this 3-year ICR period.				
—Final report of assessment	FRA anticipates zero railroad submissions during this 3-year ICR period.				
Total ⁹	754 railroads	8,829,303 responses	N/A	232,525 hours	\$17,599,370

Total Estimated Annual Responses: 8,829,303.

Total Estimated Annual Burden: 232,525 hours.¹⁰

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$17,599,370.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Brett A. Jortland,

Deputy Chief Counsel.

⁹ Totals may not add due to rounding.

¹⁰ The current inventory exhibits a total burden of 3,815,751 hours while the total burden of this notice is 232,525 hours. As part of its review of this ICR renewal, FRA determined many of the previous estimates were preliminary, outdated, or duplicative. Moreover, FRA removed locomotive safety requirements outside the scope of the PRA, thus decreasing the total estimates accordingly in this notice.

